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MAILED

JUN 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael Bell et al.	:	DECISION ON APPLICATION
Application No. 09/937,542	:	FOR PATENT TERM ADJUSTMENT
Filed: September 26, 2001	:	
Atty. Docket No. 40198/324831(CAN100)	:	

This is in response to the "Communication Regarding Patent Term Adjustment (PTA) Indicated in the Notice of Allowance" filed January 19, 2010. Applicants request the initial determination of patent term adjustment be corrected from zero (0) days to one thousand six hundred ninety-one (1,691) days.

The application for patent term adjustment is **dismissed**.

On October 19, 2009, the Office mailed a "Determination of Patent Term Extension under 35 U.S.C. 154(b) (application filed after June 7, 1995 but prior to May 29, 2000)" indicating the patent term extension to date is 0 days.

Applicants contend the Notice of Allowance should have indicated the patent term adjustment is 1,691 days.

Applicants' arguments for patent term adjustment are based on an assumption the provisions of the Patent Term Guarantee Act of 1999, Pub. L. No. 106-113, § 4402, 113 Stat. 1501A-557 (codified at 35 U.S.C. § 154(b)) apply to the instant case. However, the provisions of the act do not apply to international applications filed before May 29, 2000. Even if the application fulfills the requirements of 35 U.S.C. § 371 on or after May 29, 2000, the provisions of the act are inapplicable if the international filing date is before May 29, 2000. *See* Comment 6 to Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term (Final Rule), 65 *Fed. Reg.* 56366 (September 18, 2000).

The international filing date for this application is April 7, 2000, which is before May 29, 2000. Therefore, the provisions of the Patent Term Guarantee Act of 1999 are inapplicable.

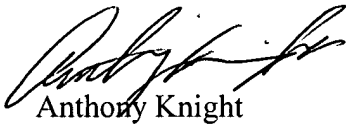
Although the provisions of the Patent Term Guarantee Act of 1999 do not apply in this case, the provisions of former 35 U.S.C. § 1.154(b) and 37 C.F.R. § 1.701 are applicable because the

international filing date for the application is on or after June 8, 1995, and before May 29, 2000. Under the former statute and regulation, the term of a patent can be extended by up to a maximum of five years as a result of delays in the issuance of the patent due to interferences, secrecy orders, and/or successful appeals to the Board of Patent Appeals and Interferences or federal courts. The record fails to indicate any time was consumed by a secrecy order, interference, or successful appeal in this case. Therefore, the Office has no authority to grant an extension of the patent term.

Receipt of the \$200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fees are required.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read "Anthony Knight", is written over the printed name.

Anthony Knight
Director
Office of Petitions